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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 TUAN NGO,

9 Plaintiff,

10 v.

11 SENIOR OPERATIONS, LLC,

12 Defendant.
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NO. C18-1313RSL

ORDER DENYING MOTION FOR
REMAND

14 This matter comes before the Court on plaintiff's "Motion to Remand." Dkt. # 8. A
15 defendant in state court generally has the right to remove the case to federal court only if the
16 case could have been filed originally in federal court (*i.e.*, on federal diversity or federal question
17 grounds). See 28 U.S.C. § 1441(b). The general removal statute, 28 U.S.C. § 1441, is construed
18 restrictively: any doubts regarding the removability of a case will be resolved in favor of
19 remanding the matter to state court. See, e.g., Shamrock Oil & Gas Corp. v. Sheets, 313 U.S.
20 100, 108-09 (1941); Durham v. Lockheed Martin Corp., 445 F.3d 1247, 1252 (9th Cir. 2006).
21 Defendant contends that diversity jurisdiction exists in this case.
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24 Plaintiff does not dispute that the parties are citizens of different states, but argues that
25 defendant cannot demonstrate that the amount in controversy exceeds \$75,000. In a notice of
26 removal, a defendant asserting diversity jurisdiction need only make a plausible argument that
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28 ORDER DENYING MOTION
FOR REMAND - 1

1 the amount in controversy exceeds \$75,000. Dart Cherokee Basin Operating Co., LLC v. Owens,
2 __ U.S. __, 135 S. Ct. 547, 554 (2014). Once the amount is put at issue, however, defendant has
3 the burden of proving by a preponderance of the evidence that removal is appropriate under the
4 statute. Id.; Hunter v. Philip Morris USA, 582 F.3d 1039, 1042 (9th Cir. 2009).


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6 Together the parties have submitted evidence showing that plaintiff earned \$27/hour
7 while working for defendant, that plaintiff's employment was terminated on January 22, 2018,
8 and that he found a new job on June 8, 2018. Assuming for purposes of this motion that
9 plaintiff's new employment pays him at least as much as his prior employment, his lost wages in
10 the intervening twenty weeks would be only \$21,600. Plaintiff also seeks emotional distress and
11 "special" damages in amounts to be proven at trial. Defendant has provided case summaries,
12 some of which are similar to this case, in which the jury awarded non-economic damages of
13 three times the amount of economic damages. In addition, plaintiff seeks statutory attorney's
14 fees, which defendant estimates to be \$250/hour times 300 hours or \$300,000. While the Court
15 doubts that Mr. Martin will spend 7.5 weeks on this case, the total amount in controversy is
16 easily \$75,000. Plaintiff's motion for remand completely ignores the information defendant
17 provided regarding non-economic damages and the attorney's fee calculations. Considering the
18 record as a whole, the preponderance of the evidence shows that the jurisdictional amount is
19 satisfied.
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1 For all of the foregoing reasons, removal was appropriate, and plaintiff's motion to
2 remand (Dkt. # 8) is DENIED.

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4 Dated this 24th day of October, 2018.

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6 Robert S. Lasnik
7 United States District Judge
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